

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

LUCIANNE M. WALKOWICZ,

Plaintiff,

v.

AMERICAN GIRL, LLC, AMERICAN
GIRL BRANDS, LLC, and MATTEL, INC.,

Defendants.

Civil Action No.: 3:20-cv-00374-jdp

**DECLARATION OF BRYCE A. LOKEN IN SUPPORT OF
MOTION TO REVISE OPENING SUMMARY JUDGMENT DEADLINE**

I, Bryce A. Loken, hereby declare:

1. I am an attorney with Quarles & Brady LLP, attorneys for Defendants American Girl, LLC, American Girl Brands, LLC and Mattel, Inc. (collectively “American Girl”) in the above-captioned case, and as such have personal knowledge of the facts stated below.

2. I submit this declaration in support of Joint Motion to Move Opening Summary Judgment Motion Deadline While Preserving All Other Deadlines, Including Response and Reply Briefs.

3. Attached as **Exhibit A** is a true and correct copy of American Girl’s March 26, 2021 Notice of Deposition of Plaintiff Lucianne M. Walkowicz. American Girl noticed Plaintiff’s deposition for May 5, 2021 and stated its hope that given “the extensive notice period that you and your witness can be available on May 5th.”

4. Attached as **Exhibit B** is a true and correct copy of an April 9, 2021 letter from the undersigned to Plaintiff’s counsel regarding several discovery deficiencies that needed to be

addressed in advance of the upcoming May 5th deposition and May 18th summary judgment deadline. American Girl's April 9, 2021 letter requested a response by April 13, 2021.

5. Attached as **Exhibit C** is a true and correct copy of Plaintiff's counsel's April 9, 2021 e-mail acknowledging American Girl's April 9 letter. Opposing counsel stated they would respond the following week and acknowledged the need the upcoming deposition and summary judgment deadline—"We certainly do want you to have everything you need for summary judgment and Dr. Walkowicz's deposition and we do not intend to impede that."

6. Attached as **Exhibit D** is a true and correct copy of an April 13, 2021 e-mail from American Girl's counsel asking opposing counsel for its availability to discuss the Walkowicz deposition date and logistics.

7. On April 14, 2021 counsel for the parties held a meet and confer. While the meet and confer was scheduled to discuss deposition date(s) and logistics, the parties discussed a different topic, and American Girl's counsel stated that they would need to find a time soon to discuss the deposition.

8. Attached as **Exhibit E** is a true and correct copy of an April 21, 2021 e-mail from undersigned counsel stating that since the deposition was not discussed during the April 14, 2021 conversation, undersigned counsel sought dates and times Plaintiff's counsel was available to discuss the deposition.

9. On April 24, 2021, American Girl's counsel again inquired into Plaintiff's position on the deposition and whether Plaintiff agreed to move the deposition from May 5th to May 7th. Attached as **Exhibit F** is a true and correct copy of counsel's April 24, 2021 letter to Plaintiff's counsel.

10. On April 26, 2021, during the parties' meet and confer, American Girl's counsel inquired on the May 5, 2021 deposition date. Plaintiff's counsel informed American Girl's counsel for the first time that the April 13, 2021 email had been perceived as withdrawing the May 5, 2021 noticed deposition date (which had not been confirmed) and, in any case, the Plaintiff could not be available May 5, 2021. Plaintiff's counsel offered May 14, 2021. American Girl's counsel explained that the May 5, 2021 date had not been withdrawn and also stated that May 14, 2021 would be too close to the dispositive motion deadline.

11. Attached as **Exhibit G** is a true and correct copy of American Girl's counsel's April 27, 2021 e-mail memorializing the April 26 meet and confer and expressing American Girl's concerns that it was not notified of Plaintiff's inability to appear until May 14th. American Girl's counsel expressed that Friday, May 14th was untenable given the short 2 business day gap between the deposition and the May 18 summary judgment deadline.

12. On April 27–28, 2021, the parties met and conferred via email and agreed to resolve the matter by moving the deposition of Plaintiff to May 12th and also filing a joint motion in which Plaintiff represents that Plaintiff is not available to produce Plaintiff for deposition until the later date and that Plaintiff consents to moving the summary judgment deadline from May 18th to May 21st without any other changes to the schedule.

13. Attached as **Exhibit H** is a true and correct copy of an April 27, 2021 e-mail from Plaintiff's counsel.

14. Attached as **Exhibit I** is a true and correct copy of an April 28, 2021 e-mail from undersigned counsel regarding American Girl's proposal to move the deposition to May 11th or May 12th and also jointly file a motion, representing that Plaintiff is not available to produce Dr. Walkowicz until the later date and that Plaintiff consents to moving the summary judgment

deadline from May 18th to May 21st without any other changes to the schedule. Attached as **Exhibit J** is a true and correct April 28, 2021 e-mail from Plaintiff's counsel agreeing to produce Plaintiff for deposition on May 12th and to American Girl's proposal on this motion.

I declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: April 29, 2021

/s/ Bryce A. Loken

Bryce A. Loken

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2021, I caused to be electronically filed the foregoing document with the Clerk of the Court using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Kristin Graham Noel

Kristin Graham Noel